

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

YOVANNY DOMINGUEZ,

Plaintiff,

-v-

FL RETAIL OPERATIONS LLC,

Defendant.

19 Civ. 10624 (PAE) (SLC)

ORDER

PAUL A. ENGELMAYER, District Judge:

On March 2, 2020, defendant FL Retail Operations LLC (“FL Retail”) moved to dismiss plaintiff Yovanny Dominguez (“Dominguez”)’s initial complaint in this case. Dkt. 16. On March 3, 2020, the Court referred the motion to the Honorable Sarah L. Cave, United States Magistrate Judge, for a report and recommendation. Dkt. 18. On March 16, 2020, Dominguez filed an amended complaint. Dkt. 19. On April 6, 2020, FL Retail filed its motion to dismiss the amended complaint. Dkt. 21. On June 24, 2020, the Court stayed the case and denied the motion to dismiss without prejudice in light pending a decision from the Second Circuit in similar cases. Dkt. 31.

On June 15, 2022, the parties filed a joint letter alerting the Court that the Second Circuit has issued a decision in *Calcano, et al. v. Swarovski North America Ltd., et al.*, No. 20-1552. Dkt. 33. Plaintiffs requested that they be permitted to file a Second Amended Complaint within 30 days in order to cure the standing issues the Second Circuit had identified in *Calcano*; FL Retail opposed plaintiffs’ request on the ground that such amendment would be futile.

The Court grants plaintiff’s request to file a Second Amended Complaint, which shall be filed by July 13, 2022. By August 3, 2022, defendant shall: (1) file an answer; (2) file a new

motion to dismiss; or (3) submit a letter to the Court, copying plaintiff, stating that it relies on the previously filed motion to dismiss.¹

The Court will determine later, after receipt of plaintiff's anticipated brief opposing a motion to dismiss the current or amended complaint, whether to schedule oral argument.

SO ORDERED.



PAUL A. ENGELMAYER
United States District Judge

Dated: June 15, 2022
New York, New York

¹ If defendant files a new motion to dismiss or relies on their previous motion, plaintiff's opposition will be due 14 days thereafter, and defendant's reply, if any, will be due seven days after that.